

kmp7299/LRE
Return Date & Time:
April 24, 2019 at 10:00 AM

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
IN RE:

Chapter 13 Case No: 18-22979

ROBERT CAPUTO,

NOTICE OF MOTION

Debtor(s).

-----X

PLEASE TAKE NOTICE, that upon the within application, the Chapter 13 Trustee will move this court before the Honorable Robert D. Drain, U.S. Bankruptcy Judge, at the United States Bankruptcy Court, 300 Quarropas Street White Plains, NY 10601, on April 24, 2019 at 10:00 AM, or as soon thereafter as counsel can be heard, for an Order pursuant to 11 U.S.C. §1307(c) for cause, dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

Responsive papers shall be filed with the Bankruptcy Court and served upon the Chapter 13 Trustee, Krista M. Preuss, Esq., no later than seven (7) days prior to the hearing date set forth above. Any responsive papers shall be in conformity with the Federal Rules of Civil Procedure and indicate the entity submitting the response, the nature of the response and the basis of the response.

Date: White Plains, New York
March 11, 2019

/s/ Krista M. Preuss

KRISTA M. PREUSS, CHAPTER 13 TRUSTEE
399 KNOLLWOOD ROAD, STE 102
WHITE PLAINS, NY 10603
(914)328-6333

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

Chapter 13 Case No: 18-22979

ROBERT CAPUTO,

APPLICATION

Debtor(s).

-----X

TO THE HONORABLE, ROBERT D. DRAIN, U.S. BANKRUPTCY JUDGE:

KRISTA M. PREUSS, ESQ., Standing Chapter 13 Trustee in the above-captioned estate, respectfully represents the following:

1. The Debtor filed a petition under the provisions of 11 U.S.C. Chapter 13 on June 26, 2018, and, thereafter, KRISTA M. PREUSS was duly appointed and qualified as Trustee.
2. The Debtor failed to comply with 11 U.S.C. §1325(a)(6) in that the Debtor failed to submit timely Chapter 13 plan payments to the Trustee, being, at this juncture, four months in arrears.
3. Furthermore, the Debtor has failed to:
 - a. amend the plan in consideration of post-petition payments.
 - b. file a claim for attorney's fees.
4. Loss mitigation has been denied by the lender and termination thereof sought.
5. The debtor's chapter 13 plan is deemed insufficient and infeasible.
6. The Debtor's failure as above stated impedes the Trustee's ability to administer this case and, therefore, is a default that is prejudicial to the rights of the creditors of the Debtor pursuant to 11 U.S.C. §1307(c)(1).
7. The foregoing constitutes cause to dismiss this Chapter 13 case within the meaning of 11 U.S.C. §1307(c).

WHEREFORE, the Chapter 13 Trustee respectfully requests that this Court enter an Order dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

Dated: White Plains, New York
March 11, 2019

/s/ Krista M. Preuss
Krista M. Preuss, Chapter 13 Trustee

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

Chapter 13 Case No: 18-22979

ROBERT CAPUTO,

CERTIFICATE OF SERVICE
BY MAIL

Debtor.

-----X

This is to certify that I, Lois Rosemarie Esposito, have this day served a true, accurate and correct copy of the within Notice of Motion and Application by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

ROBERT CAPUTO
2 Snow Drop Drive
New City, New York 10956

Linda M. Tirelli, Esq.
30 Main Street # 405
White Plains, New York 10606

TD Auto Finance, LLC
c/o Schiller Knapp Lefkowitz & Hertz, LLP
P.O. Box 16041
Lewiston, Maine 04243

JP Morgan Chase Bank, NA
700 Kanasas Lane
Mail Code LA4-5555
Monroe, Louisiana 71203

JP Morgan Chase Bank, NA
c/o McCalla Raymer Leibert Pierce, LLC
420 Lexington Avenue # 840
New York, New York 10170

This March 11, 2019

/s/Lois Rosemarie Esposito
Lois Rosemarie Esposito, Paralegal Case Support
Office of the Standing Chapter 13 Trustee
Krista M. Preuss, Esq.
399 Knollwood Road, Suite 102
White Plains, New York 10603
(914) 328-6333

CHAPTER 13 CASE NO: 18-22979
UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE:

ROBERT CAPUTO,

Debtor(s).

**NOTICE OF MOTION, APPLICATION
and
CERTIFICATE OF SERVICE**

**KRISTA M. PREUSS
STANDING CHAPTER 13 TRUSTEE
399 KNOLLWOOD ROAD, SUITE 102
WHITE PLAINS, NEW YORK 10603
(914) 328-6333**
